

§516.7

32 CFR Ch. V (7–1–02 Edition)

§516.7 Mailing addresses.

Mailing addresses for organizations referenced in this regulation are in appendix B to this part.

Subpart B—Service of Process

§516.8 General.

(a) Defined. Process is a legal document that compels a defendant in an action to appear in court or to comply with the court's demands, for example, in a civil case a summons or subpoena, or in a criminal case, a warrant for arrest, indictment, contempt order, subpoena, or summons. Service of process is the delivery of the document to a defendant to notify him of a claim or charge against him.

(b) Policy. DA personnel will follow the guidance of this chapter when civil officials attempt to serve civil or criminal process on individuals on Federal property.

(c) Procedures. Provost marshals shall ensure that installation law enforcement personnel are adequately trained to respond to situations which arise with regard to service of civil and criminal process. SJAs or legal advisers shall provide guidance to law enforcement personnel in these matters.

§516.9 Service of criminal process within the United States.

(a) Surrender of personnel. Guidance for surrender of military personnel to civilian law enforcement officials is in Chapter 7 of AR 630–10 and AR 190–9. Army officials will cooperate with civilian law enforcement authorities who seek the surrender of a soldier in connection with criminal charges. Special rules apply when a bail bondsman or other surety seeks custody of a soldier.

(b) Requests for witnesses or evidence in criminal proceedings. See subpart G to this part.

[59 FR 38236, July 27, 1994; 59 FR 45975, Sept. 6, 1994]

§516.10 Service of civil process within the United States.

(a) Policy. DA officials will not prevent or evade the service or process in legal actions brought against the United States or against themselves in their official capacities. If acceptance

of service of process would interfere with the performance of military duties, Army officials may designate a representative to accept service. DA personnel sued in their individual capacity should seek legal counsel concerning voluntary acceptance of process.

(b) Request for witnesses or evidence in civil proceedings. See subpart G to this part.

(c) Process of Federal courts. Subject to reasonable restrictions imposed by the commander, civil officials will be permitted to serve Federal process. (See Fed. R. Civ. P. 4, 45).

(d) Process of state courts.

(1) In areas of exclusive Federal jurisdiction that are not subject to the right to serve state process, the commander or supervisor will determine whether the individual to be served wishes to accept service voluntarily. A JA or other DA attorney will inform the individual of the legal effect of voluntary acceptance. If the individual does not desire to accept service, the party requesting service will be notified that the nature of the exclusive Federal jurisdiction precludes service by state authorities on the military installation.

(2) On Federal property where the right to serve process is reserved by or granted to the state, in areas of concurrent jurisdiction, or where the United States has only a proprietary interest, Army officials asked to facilitate service of process will initially proceed as provided in the preceding subparagraph. If the individual declines to accept service, the requesting party will be allowed to serve the process in accordance with applicable state law, subject to reasonable restrictions imposed by the commander.

(e) Process of foreign courts. A U.S. District Court may order service upon a person who resides in the judicial district of any document issued in connection with a proceeding in a foreign or international tribunal. (28 U.S.C. 1696). In addition, the U.S. State Department has the power to receive a letter rogatory issued by a foreign or international tribunal, to transmit it to a tribunal, officer or agency in the United States, and to return it after execution. (28 U.S.C. 1781). Absent a